

PROSKAUER ROSE LLP
Gregory I. Rasin
Elise M. Bloom
Steven D. Hurd
1585 Broadway
New York, New York 10036
(212) 969-3000
Attorneys for Defendant

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
JANNIE PILGRIM, GIOVANNA HENSON,	:	
JESAN SPENCER, BRENDA CURTIS,	:	Civil Action No.: 07-6618 (CM) (AJP)
	:	
Plaintiffs,	:	
	:	<u>DEFENDANT'S PROPOSED</u>
against	:	<u>VOIR DIRE</u>
	:	
THE MCGRAW-HILL COMPANIES, INC.,	:	
	:	
Defendant.	:	
-----	X	

Defendant, The McGraw-Hill Companies, Inc., by and through its undersigned counsel, proposes that the following questions be used by the Court during the *voir dire* examination of prospective jurors prior to trial:

General Impartiality Questions

1. Do you feel that jury duty will create a financial hardship for yourself or your family? If so, please explain.
2. Do you have any hesitation or unwillingness to accept the rules of law that I have stated?
3. Do you have any ideas or prejudices that would prevent or hinder you from following the instructions that I will give as to the law?
4. Your duty will be to listen to the testimony. At the conclusion of the testimony, the Court will instruct you as to what the law is and will charge you to apply those principles of law to the case before you. Do you have any doubt that you will be able to apply the law as I explain it even if you disagree with it?

5. In the trial of this case, both parties are entitled to have the case decided on the basis of the evidence presented at trial. Is there any reason why any of you might not be able to render a fair verdict?
6. Can you agree to wait to hear all of the evidence before forming an opinion on this case?
7. Do you have any religious or ethical beliefs that would prevent you from passing judgment on another person?

Difficulties in Understanding or Serving

8. This trial is expected to last approximately 15 days. Is there anything about the length of the trial that would prevent you from serving as a juror?
9. Do you have a problem with your hearing or vision that would prevent you from giving attention to all of the evidence at this trial?
10. Do you have any difficulty understanding or reading English?
11. Do you have any special medical problems that might interfere with your service as a juror in this case?

Knowledge of the Parties and Counsel

12. Do you or, to your knowledge, does any member of your immediate family, know the Plaintiffs – Jannie Pilgrim, Giovanna Henson, Jesan Spencer, and Brenda Curtis? If yes, what is the nature of your relationship or association? Would any such relationship or association prevent you from rendering a fair and impartial verdict?
13. Plaintiffs are represented by Lawrence Solotoff and Cheryl Solotoff. Do you know, or have you had any dealings, personal or business, with Plaintiffs' attorneys?
14. Have you, or has any member of your family, ever been employed by Defendant McGraw-Hill or Standard & Poor's? If yes, what were the dates of employment? Are you, or is your family member, still employed? What is/was the position occupied by you or your family member? Who are/were the supervisors of you or your family member?
15. Are you, or is any member of your family, presently doing business with Defendant McGraw-Hill or Standard & Poor's? Do you, or any member of your family, have any relationship with McGraw-Hill or Standard & Poor's? Have you or any members of your family done business or had any relationship with McGraw-Hill or Standard & Poor's in the past? If yes, what is the nature of your relationship or interest? Would any such relationship or interest prevent you from rendering a fair and impartial verdict?

16. Defendant McGraw-Hill is represented by Gregory Rasin, Elise Bloom, and Steven Hurd of the law firm Proskauer Rose LLP. Do you know, or have you had any dealings, personal or business, with any of these attorneys or their law firm?
17. Does you have a family member or close friend employed by the law firm of Proskauer Rose or by Lawrence or Cheryl Solotoff?
18. Have you seen, read or heard anything about this case before coming here today that might make it difficult for you to be fair and impartial?
19. I am going to read you a list of names of people who may be called as witnesses in this case. Do you know, know about, or have you had any personal or business dealings with any of the proposed witnesses in this case? If so, how do you know the individuals? Do you have any feelings or opinions about such individuals?
 - a. Laticia Archie
 - b. Rita Bolger
 - c. Kenneth Caruso
 - d. Carl Cederholm
 - e. Paul Coughlin
 - f. Debra Curtis
 - g. Rene DuBose
 - h. Nancy (Tomeo) Farrelly
 - i. Richard Fisher
 - j. Marianne Gattinella
 - k. Susan George
 - l. John Gillen
 - m. Tom Gillis
 - n. Jordan Grant
 - o. William Harper
 - p. Joe Held
 - q. Robin Hicks

r. Joyce Hunsucker
s. Evonne Inglesh
t. Dr. Joel Kleinman
u. Dr. Patricia Kuusisto
v. Ivy Latimer
w. Anne Maffei
x. Blessing Mariano
y. Brett Marschke
z. Sarah McAuley
aa. Brett Marschke
bb. Prema Menon
cc. Sheila Mitchell
dd. Joanne Nord-Montanez
ee. David Murphy
ff. Deborah O'Connor
gg. Sheila O'Neill
hh. Michael Roderick
ii. Hosie Scott
jj. Thomas Simmons
kk. Dr. Charles Sodikoff
ll. Vladimir Stadnyk
mm. Shari Stein
nn. Stephanie Thomas
oo. Jeffrey Weberman, CPA
pp. Dawanna Veneable

qq. Gail Whelan

Personal Background/Employment/Education

20. Where do you live presently? How long have you lived in your current address?
21. Where were you born?
22. What is your age?
23. Are you married? If yes:
 - a. Is your spouse employed?
 - b. What position does he/she hold?
 - c. How long has he/she worked for that employer?
 - d. Has he/she ever been disciplined by an employer?
 - e. Does your spouse supervise any employees? If so, has he/she ever had to discipline or discharge an employee with performance problems?
24. What is your educational background?
25. Have you or any member of your immediate family ever had any education, training or work experience in the following areas: human resources, personnel, labor relations, law, counseling, social work, psychology?
26. Do you have any military experience?
27. Are you currently employed? (If not, when were you last employed?)
28. State your present occupation and identify your employer. If retired or unemployed, describe your last job.
29. What is your job title?
30. How long have you been employed there?
31. What are your job duties?
32. Do you supervise other employees or have you ever supervised other employees?
33. Has your job ever required you to make unpleasant decisions that affected others?
34. Have you ever been in a position in which you were responsible for terminating another employee's employment? What were the circumstances?

35. Have you or any member of your immediate family ever been terminated from a job? Who was the employer? What were the circumstances? Do you believe the termination was justified? Why? (Or why not?)
36. Have you or any member of your immediate family ever felt forced to resign from a job? Who was the employer? What were the circumstances? Why did you feel forced to resign?
37. Have you ever been denied a promotion or a position for which you applied? Who was the employer? What were the circumstances? Do you believe the denial was justified? Why? (Or why not?)
38. If you or any of your immediate family members have been unemployed at any time within the last 10 years, please indicate when and for how long. Was your unemployment voluntary or involuntary? Was it the result of an involuntary discharge?
39. Have you ever owned your own business or been self-employed? What the nature of your self-employment?

Questions Regarding Issues in this Case

40. Have you, your spouse, any member of your family or a close personal friend ever been accused of engaging in discriminatory or retaliatory conduct? What were the circumstances? How was the accusation resolved?
41. Have you, your spouse, any member of your family or a close personal friend ever felt or believed that you or they were discriminated against either on the job or elsewhere? If yes:
 - a. In what setting did the discrimination occur? (employment? housing? banking? other?)
 - b. What was the basis for this feeling that discrimination had occurred (race, color, religion, age, sex, national origin, marital status, disability)?
 - c. What did you, or the individual involved, do in response?
 - d. Did you, or the individual involved, complain to anyone about this feeling that discrimination had occurred?
 - e. Was a charge or lawsuit ever filed in state or federal court because of alleged discrimination? If yes, what was the outcome?
 - f. Were you, or the individual involved, satisfied or dissatisfied with the outcome?

42. Have you, your spouse, any member of your family or a close personal friend ever felt or believed that you or they were retaliated against either on the job or elsewhere? If yes:
 - a. In what setting did the retaliation occur? (employment? housing? banking? other?)
 - b. What was the basis for this feeling that retaliation had occurred? Had you previously made a complaint of discrimination?
 - c. What did you, or the individual involved, do in response?
 - d. Did you, or the individual involved, complain to anyone about this feeling that retaliation had occurred?
 - e. Was a charge or lawsuit ever filed in state or federal court because of alleged retaliation? If yes, what was the outcome?
 - f. Were you, or the individual involved, satisfied or dissatisfied with the outcome?
43. This is a case involving a claim of alleged race discrimination. Do you assume that if someone is claiming that he or she was discriminated against, that it must be true?
44. Have you ever heard anyone use racist or otherwise inappropriate comments in the workplace? If so, what were the circumstances?
45. During the course of the trial, you may hear evidence introduced by McGraw-Hill with regard to several business decisions that it made with regard to each Plaintiff's employment. In deciding the claims brought by each Plaintiff, do you understand that McGraw-Hill business judgment is not on trial?
46. As jurors in this action, you will be asked to consider McGraw-Hill motivation for its actions, not its business judgment. Do you understand that as jurors in this action, even if you were to believe that McGraw-Hill exercised poor or questionable business judgment in its decisions you cannot find in favor of a Plaintiff, unless she has proven her claim of discrimination by a preponderance of the evidence?
47. If, after hearing all the evidence in this case, you found that Plaintiffs had not been discriminated against, but you felt sorry for them, would you want Plaintiffs to be compensated by McGraw-Hill anyway? Please explain.
48. Do you think that employers generally treat African American employees less fairly than Caucasian employees?

- 49. Do you think that there is widespread actual or perceived race discrimination in the workplace? Why do you think that?
- 50. Would you entertain any prejudice against McGraw-Hill or sympathize with Plaintiffs because they claim they were discriminated against because of their race?

Participation in the Legal System

- 51. Have you ever served on a jury before? If yes:
 - a. When?
 - b. What type of case?
 - c. Did you deliberate and reach a verdict?
- 52. Have you, or has any member of your family or close friends, ever been a plaintiff or defendant in a state or federal court case, whether criminal or civil? If yes:
 - a. What kind of case?
 - b. What did it involve?
 - c. How was it resolved?
 - d. Was there anything about that experience that would prevent you from acting as a fair and impartial juror in this case?
- 53. Have you ever been a witness in any lawsuit or other proceeding? If yes, explain. How, if at all, would that affect your ability to serve as a juror?
- 54. Have you, or has any member of your family or a close friend, ever filed any complaint of discrimination with any government agency or taken any legal action against any employer? If yes, please describe the nature of the claim and the outcome.
- 55. Have you ever been arrested or accused of committing a crime? If yes:
 - a. For what crime were you accused or arrested?
 - b. What was the disposition of that accusation?
 - c. Has the fact that your were involved in the judicial system affected the way you regard the courts, lawyers or parties to the lawsuit?

Understanding and Opinions about the Legal Process

56. Is there anyone here who believes that just because a Plaintiff filed a lawsuit, she is entitled to recover something?
57. Do you as jurors understand that merely because Plaintiffs have filed this lawsuit it does not mean that McGraw-Hill has done anything wrong or violated some legal rights Plaintiffs may have had?
58. Do you understand that Plaintiffs are required to prove by a preponderance of the evidence that some legal right has been violated and that it is not up to McGraw-Hill to disprove the claims Plaintiffs have made? Do you understand that Plaintiffs have to do something more than merely accuse McGraw-Hill of wrongdoing?
59. If you are selected as a juror, would you require Plaintiffs to prove their case by a preponderance of the evidence?
60. Do you have any opinions about the legal system that would prevent you from being a fair and impartial juror in this case?
61. Will you be able to separate out any feelings of sympathy or compassion that you may have for Plaintiffs and decide the case on the facts — without sympathy or compassion for Plaintiffs and without prejudice against McGraw-Hill?

Personal Biases

62. Do you believe that employers like to get rid of employees that they perceive to be complainers?
63. Do you believe that an employee is guaranteed employment until retirement?
64. Do you have any personal feelings against corporations? Can you be as fair and impartial to a corporation as to an individual?
65. Do you have any feeling or belief which would prevent you from rendering a verdict in favor of a corporation and against an individual who has alleged race discrimination?
66. Do you feel that even undeserving plaintiffs should win if you see a management problem or practice within a company that you want to fix or change?
67. Do you think you would be inclined to find McGraw-Hill liable and award money damages simply because you believe McGraw-Hill may have the resources to pay?
68. Do you have any preference as to the outcome of this trial?

Closing Questions

69. Do you know of any reason why you should not be a juror in this case? If yes, please explain.
70. Do you know of any reason that would prevent you from fairly considering the evidence in this case and reaching an impartial result? If yes, please explain.

Dated: June 27, 2008
New York, New York

Respectfully submitted,

PROSKAUER ROSE LLP

By: /s/ Gregory I. Rasin
Gregory I. Rasin

1585 Broadway
New York, New York 10036
(212) 969-3000
(212) 969-2900 (fax)
grasin@proskauer.com
Attorneys for Defendant
The McGraw-Hill Companies, Inc.